

REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claim 5 has been canceled in this paper. Claims 1, 4, 9-11 and 13 have been amended in this paper. No new claims have been added in this paper. Accordingly, claims 1-4 and 6-13 are pending and are under active consideration.

The disclosure stands objected to for the following reasons:

The uses of Trademarks/Tradenames have been noted throughout this application (page 5 of the instant specification). The specific name/mark should be in ALL CAPS, followed by either a trademark or copyright symbol AND be accompanied by the generic terminology. All three criteria must be met. Although the use of Trademarks/Tradenames is permissible in patent applications, the proprietary nature of the marks/names should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as a trademark or tradename. To describe physical or other properties of material by mere use of trademark is objectionable since it has a tendency to make trademark descriptive of product rather than leaving trademark to serve its traditional purpose, which is to identify product's source of origin. Appropriate correction is required.

The attempt to incorporate subject matter into this application by reference a claim by just its number, for instance "Claim 1 on page 2, line 14 of the instant specification["] is improper and could make the claim indefinite, because in the current format the limitations of claim 1 are not listed. This notion [is] further supported by the fact that either the claim or specification could be amended during the prosecution which could possibly result in new matter or making either or indefinite. Please rectify.

In response to the above, Applicant has amended (i) page 5 of the specification to refer to trademarks in the manner required by the Patent Office and (ii) page 2 of the specification to remove the reference to claim 1.

Accordingly, the objection to the disclosure has been overcome and should be withdrawn.

Claims 1-13 stand rejected “under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 4514463 issued to Alteepping et al.”

Alteepping et al. disclose in their broadest interpretation a laminate suitable for use as a liner wherein the laminate comprises a batt of nonwoven polyolefin fibers, which are thermally bonded to an ethylene butylacrylate polymer (abstract). One of the aspects of their invention relates to a product suitable for use where a water resistant coating which is applied to liquid containers including, for example, water treatment plants, ponds, swimming pools, tank linings, pipe linings, etc. In a further aspect, the invention relates to a method of manufacturing these laminates and to the application of the laminates onto substrates. [Col. 1, lines 23-30, and col. 1, line 33 through col. 2, line 40 of Alteepping et al. omitted.]

With regard to the preambular limitation of the claims, that is, “A protective hood,” the Examiner is of the position that; Applicant has failed to recite definite structure of said hood other than the description given on pages 1 and 5 of the instant specification, which in its broadest interpretation is simply a composite comprising a nonwoven with a coating. Additionally, when relying on the figures it appears to be a tarp, which in turn are generally known in the art to be composed of coated fabrics which are applied to metal substrates such as the surface of a car which is what Applicant envisions; thus the preambular language is not given weight for its intended use. Further, a recitation of intended use of the claimed invention must result in a structural difference between the claimed invention and that of the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim limitations. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Here it is the Examiner’s position that the invention of Alteepping et al. is capable of being used as a protective hood for automobiles. The Examiner notes that not only does Alteepping et al. also desires the same end function of their laminate as Applicant, i.e. provides good resistance to stress, abrasion, weather, water and to microorganisms. Therefore, a skilled artisan would have found it obvious to employ the laminate of Alteepping et al. for use as a protective hood, motivated by the reasoned expectation of having a composite, which provides resistance to weather and abrasion.

Applicant respectfully traverses the foregoing rejection. Claim 1, from which claims 2-4, 6-8 and 10-12 depend, has been amended herein and now recites “[p]rotective hood for automobiles comprising a composite material with a support material of nonwoven polypropylene and a coating material of a thermoplastic copolymer, wherein said coating material consists essentially of an ethylene-butyl acrylate copolymer, wherein said coating material is introduced onto the support material by means of extrusion coating, wherein said coating material has a coating weight between 10 and 150 g/m² and wherein said composite material has a water-vapor permeability of at least 30 g/m²xd.”

Support for the foregoing amendment to claim 1 may be found in the present specification, for example, on page 4, lines 5-7.

Claim 1 is neither anticipated by nor rendered obvious over Alteepping et al. for at least the reason that Alteepping et al. does not teach or suggest a protective hood for automobiles that, among other things, comprises a composite material with a support material of nonwoven polypropylene and a coating material of a thermoplastic copolymer, wherein said coating material consists essentially of an ethylene-butyl acrylate copolymer, wherein said coating material is introduced onto the support material by means of extrusion coating, **wherein said coating material has a coating weight between 10 and 150 g/m² and wherein said composite material has a water-vapor permeability of at least 30 g/m²xd.**

As noted in the present specification, it is not only important that the protective hood of the present invention provide protection to the automobile, but it is also important that the subject protective hood be sufficiently **permeable** to water vapor so that condensation and mold do not form on the hooded article. For at least the reasons below, Applicant respectfully submits that Alteepping

et al. fails to teach or to suggest a protective hood having, among other things, the **permeability** and **coating weight** requirements recited in claim 1.

Alteepping et al. teaches a laminate suitable for use as a sealing liner for liquid containers, such as water treatment plants, ponds, swimming pools, tank linings, pipe linings, and the like. As can be appreciated, to be useful as a sealing liner, such laminates have to be water-resistant. To achieve this objective of being water-resistant, the Alteepping laminate comprises a layer of ethylene/butylacrylate copolymer having a coating weight of **600 to 1200 g/m²** bonded to a polyolefin fabric having a support weight of 100 to 300 g/m². Because the ethylene/butylacrylate copolymer of Alteepping et al. has such a high coating weight (i.e., **600 to 1200 g/m²** as compared to the coating weight of **10 to 150 g/m²** recited in claim 1), the resulting coating is relatively thick. As a result, the Alteepping laminate provides a barrier that is relatively impermeable to water vapor. In other words, the Alteepping laminate has a water-vapor permeability of much less than the at least 30 g/m²xd called for in claim 1.

Claims 2-4, 6-8 and 10-12 recite additional features that further distinguish over Alteepping et al.

Claim 9 is patentable over Alteepping et al. for at least the same types of reasons discussed above in connection with claim 1.

Claim 13 is patentable over Alteepping et al. for at least the reason that Alteepping et al. fails to teach or to suggest the coating weight of 10 to 150 g/m² recited in claim 13.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Applicant notes that the Patent Office has withdrawn the previous rejection based on Tsutsumi et al. Applicant maintains that the claims are patentable over Tsutsumi et al. for at least the reasons of record.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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Dated: January 12, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 12, 2005.

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